

## ORDINANCE NO.46- 203

AN ORDINANCE CREATING NEW CHAPTER 3.74  
OF THE CODE OF THE CITY OF WICHITA,  
KANSAS, PERTAINING TO LICENSING OF  
FUNERAL ESCORT SERVICES AND REPEALING  
THE ORIGINAL OF SAID CHAPTER 3.74.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS:

SECTION 1. Section 3.74.010 of the Code of the City of Wichita, Kansas, shall read as follows: “**License required.** No person shall engage in the operation of a funeral escort service within the corporate limits of the city without first obtaining a license for such service as provided in this chapter.

“Funeral escort service” is defined to mean and include any person or entity hired to direct and/or control traffic for a funeral procession while escorting the procession through the streets and highways of the city.”

SECTION 2. Section 3.74.020 of the Code of the City of Wichita, Kansas, shall read as follows: “**Application.** Any person desiring to operate a funeral escort service shall make application for a license with the city clerk. The application shall be on such form and contain such information as the city clerk shall require, including the following:

- (a) The name and residential address of the applicant, and personal information, or if the applicant is a firm or corporation, the names, residential addresses and personal information of persons owning a financial interest therein;

- (b) The name and address under which the applicant intends to conduct his or her business;
- (c) The number and type of funeral escort vehicles proposed to be operated by the applicant;
- (d) A copy of the applicant's liability and workers compensation insurance policy as specified in Section 3.74.040 herein.
- (e) For each vehicle to be used as a funeral escort vehicle, a copy of documentation showing that the vehicle has been designated as an authorized emergency vehicle pursuant to the statutes of the State of Kansas;
- (f) A copy of a valid Kansas driver's license for the applicant, and any employee of the applicant who will be operating a funeral escort vehicle
- (g) Documentation that the applicant, all employees of the applicant, or other persons operating funeral escort vehicles for the applicant's service have satisfactorily completed a defensive driving course from an accredited defensive driving program or school."

SECTION 3. Section 3.74.030 of the Code of the City of Wichita, Kansas, shall read as follows: "**License fee, term.** An application for a funeral escort service license shall be accompanied by a fee of \$100.00, and shall be valid for one calendar year."

SECTION 4. Section 3.74.040 of the Code of the City of Wichita, Kansas, shall read as follows: "**Insurance.** (a) It shall be the responsibility of the licensee under this chapter to ensure that all vehicles operated under the authority a funeral escort service license meet and maintain the insurance requirement established herein. No license to

operate a funeral escort service shall be issued until these conditions are met. As proof of compliance with these conditions, and before any license to operate a funeral escort service shall be issued, the applicant shall:

(1) File with the city clerk an insurance policy or policies, to be approved as to form and endorsement by the city attorney, issued by an insurance company licensed to do business in the state or by an insurance carrier which must qualify either by having and maintaining at all times total assets in excess of one million dollars, or which has been engaged as an insurance carrier in the insurance business continually for more than twenty-five years.

The insurance policy must provide insurance coverage for each and every vehicle licensed and operated as part of the funeral escort service with a liability coverage of not less than \$1,000,000 for the injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of not less than \$1,000,000 because of injury or death of two or more persons in any one accident, and to a limit of not less than \$500,000 for property damages in any one accident. Such policy of insurance shall cover each and every funeral escort vehicle at all times while the service is licensed by the city and shall be effective whether the vehicle at the time of an accident was being driven by the licensee or any employee, agent, or lessee or the licensee.

Such policy of insurance shall list each and every vehicle to be insured under the policy and agree to pay any final judgment against the insured resulting from negligent or reckless operation of any and all such vehicles listed therein. Such policy shall further contain an agreement that, upon failure to pay any final judgment of personal injury, including death, rendered against the insured or against any owner, lessee or licensee, or

operator of the funeral escort vehicle so insured, the judgment creditor may maintain an action directly against the insurer in any court of proper jurisdiction to compel payment. Nothing contained in the policy or any endorsement thereof for any violation on the part of the insured or the provisions of the policy shall release the company from liability under this section in payment of such judgment.

Such policy shall be effective until at least twenty days after written notice of such cancellation has been filed with the city clerk of the city, and written acknowledgment of the service of such notice has been given to the company by the city clerk.

Such policy shall contain all of the conditions required by the laws of the state and by the insurance commissioner of the state and shall provide for actual notice to the city of any changes to be made in such policy.

(2) An applicant may file with the city clerk an insurance policy approved as to form and endorsement by the city attorney which complies with all the requirements of subdivision (1) of this subsection, except that such policy may be of a blanket type so long as each and every vehicle operated by the licensee under this chapter is covered by said policy at all times such vehicle is operated to provide funeral escort services, even though such vehicle may not be specifically described in such policy.

(b) The failure of any licensee to pay any judgment against him within ten days after such judgment becomes final and is not superseded by a proper bond on appeal shall be ground for the cancellation of all licenses issued to any such licensee.

(c) The cancellation, withdrawal or other termination of any insurance policy required by this chapter, or failure to maintain the same in accordance with the provision

of this section shall automatically terminate any license issued for the funeral escort service covered by such insurance policy, surety bond or other type of assuring agreement.”

SECTION 5. Section 3.74.050 of the Code of the City of Wichita, Kansas, shall read as follows: “**License renewal and changed or new information.** (a) The city shall mail a license renewal application form to all licensed funeral escort services annually. The funeral escort services must comply with all of the requirements for licensing set forth in this chapter, included payment of the fee set forth in Section 3.74.030.

(b) Changed information. A licensed funeral escort service shall notify the city within ten (10) days in writing of any change in information required to be provided with a license application, or of required information for any new employees.”

SECTION 6. Section 3.74.060 of the Code of the City of Wichita, Kansas, shall read as follows: “**Right of Entry and inspection.** To ensure compliance with the regulations of the city, any duly authorized officer or agent of the city or any law enforcement officer shall at all times be permitted the right of entry and inspection of any and every part of the premises designated in the license, or any vehicle designated on the license, or being used as a funeral escort vehicle.”

SECTION 7. Section 3.74.070 of the Code of the City of Wichita, Kansas, shall read as follows: “**License suspension or revocation.** (1) The chief of police or the chief’s designee may, upon five days notice, suspend or revoke a license under this chapter if it is determined that the licensee or, if the licensee is a firm or corporation, any person listed on the application, has:

- (a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;
- (b) Violated any of the provisions of this chapter, or fail to maintain any of the requirements for licensure;
- (c) Violated any rule of the chief of police adopted pursuant to the authority contained in this chapter;
- (d) Committed three (3) or more violations of Chapter 11.37 of the city code within a calendar year;
- (e) Allowed an employee or any other person to operate a vehicle covered by his or her funeral escort service license who has committed three (3) or more violations of Chapter 11.37 of the city code within a calendar year.
- (f) Operated, or allowed any employee or other person to operate a funeral escort vehicle without a valid Kansas driver's license;
- (g) Operated, or allowed any employee or other person to operate a funeral escort vehicle without having successfully completed a defensive driving course as required herein; or
- (h) Operated, or allowed any employee or other person to operate a funeral escort vehicle in a reckless or negligent manner, which operation unreasonably endangers the safety of any person or the public at large, or causes an unreasonable risk of damage to either public or private property.

(i) Operated, or allowed any employee or other person to operate a funeral escort vehicle while the vehicle, operator and any passenger therein were not in compliance with Section 11.37.030 of the Code of the City of Wichita, and any amendments thereto.

(2) If the chief of police or the chief's designee suspends or revokes a funeral escort service license under the provisions of this section, notice shall be given in writing. Such notice shall set forth the reasons for the suspension or revocation, and shall inform the licensee that such an order may be appealed to the city council by filing a written request with the city clerk within ten days from the date contained on the notice. Upon receipt of such notice, the city clerk shall notify the chief of police who shall forward all relevant information and exhibits to the city clerk within ten days. The city council shall hear the matter on the record and may affirm or reverse the action of the chief of police. An order of suspension or revocation shall be stayed during the pendency of any such appeal. The licensee may appeal the decision of the city council to the district court of the county in the manner provided by state statute. An order suspending or revoking a license hereunder shall not be stayed by an appeal from the city council to the district court.

(3) The city clerk shall notify the Sedgwick County clerk of any suspension or revocation of any license pursuant to this chapter.

SECTION 8. Section 3.74.080 of the code of the City of Wichita, Kansas, shall read as follows: **"Application of regulations to existing businesses.** The provisions of this chapter shall be applicable to all businesses participating in the activities described in

this chapter, regardless of when established. All existing funeral escort services at the time of the passage of the ordinance codified in this chapter must submit application for a license within ninety days of the date the ordinance codified in this chapter becomes effective. If an application for such license is not made within a ninety-day period, then such existing funeral escort service shall cease operation. Nothing herein shall be construed to prohibit the city's right to refuse to grant a license to an existing funeral escort service that upon application is not eligible for a license under this chapter.

SECTION 9. Section 3.74.090 of the Code of the City of Wichita, Kansas, shall read as follows: “**Violation – Penalty.** Any person violating any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars.”

SECTION 10. The original of Chapter 3.74 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 11. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 20th day of July, 2004.

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Carlos Mayans, Mayor

Attest:

  

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, Director of Law